## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI SOUTHWESTERN DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	- N - 02 05025 01 CD CW CAE
vs.	) Case	e No. 02-05025-01-CR-SW-GAF
THOMAS SMITH,	)	
	)	
Defendant.	)	

## <u>ORDER</u>

Now pending before the Court is defendant's Motion to Dismiss Count IV (Doc. 346), Motion to Dismiss Count IV as it is Duplicious [sic] (Doc. 347), and Motion to Dismiss Counts VI and VII as they were based on perjury and misleading testimony (Doc. 403).

On November 28, 2005, United States Magistrate Judge James C. England issued his Report and Recommendation.

Upon careful and independent review of the pending motions, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge James C. England.

Accordingly, it is hereby ORDERED that defendant's Motion to Dismiss Count IV (Doc. 346), Motion to Dismiss Count IV as it is Duplicious [sic] (Doc. 347), and Motion to Dismiss Counts VI and VII as they were based on perjury and misleading testimony (Doc. 403) are overruled and denied.

SO ORDERED.

/s/ Gary A. Fenner
GARY A. FENNER, JUDGE
United States District Court

DATED: January 9, 2006